

## **I. Rejection of claims 1, 11 and 17 over Fraser '947**

Paragraph 2 of the Action discusses claim 1 in light of Fraser '947. Claim 1 recites as follows:

1. A method comprising:  
receiving at a data processing system a lending criteria from each of a plurality of lenders;  
compiling a first set of statistics in said data processing system based on said lending criteria from each of said plurality of lenders; and  
outputting from said data processing system said first set of statistics to a first lender at a price that is based on a first measure of fees incurred with respect to said first lender.

The portion of Fraser '947 said to be relevant to the “price based on a first measure of fees incurred with respect to said first lender” is at col. 14, lines 53-57:

The amount of the fee can be fixed or can be varied in response to the prospective loan information, such as the amount of the loan, and in a preferred embodiment is varied in response to CRA [Community Reinvestment Act] qualification of the loan.

To the extent that Fraser discusses varying any price, it is a variation based on the “amount of the loan” or “CRA qualification” (CRA qualification is determined by characteristics of the borrower and property, *e.g.*, whether the property is in a depressed neighborhood), not “based on a first measure of fees incurred with respect to said first lender” as recited in claim 1.

Because Fraser '947 does not teach varying a price “based on a first measure of fees incurred with respect to said first lender,” claim 1 is patentable over Fraser '947.

Claims 11 and 17 (discussed in paragraph 4 of the Action) are patentable for similar reasons.

## **II. Rejection of claims 23, 29, 35 and 37 over Fraser '947**

Paragraph 4 of the Action discusses claim 23 in light of Fraser '947. Claim 23 recites as follows:

23. A method comprising:  
receiving at a data processing system a lending criteria from each of a plurality of lenders;  
compiling statistics in said data processing system based on said lending criteria from each of said plurality of lenders;  
outputting from said data processing system said statistics to a first loan pool trader; and  
receiving at said data processing system from said first loan pool trader an offer to sell at least one loan.

The Office Action equates “offer to sell and buy a loan” to the activities of a loan broker and lender, respectively. Applicant respectfully observes that this reflects a misunderstanding of a recognized term of art. “Buying” and “selling” of loans applies to transactions in existing loans in a secondary market, not originating new loans. The specification consistently uses the terms “buying” and “selling” in a manner consistent with this usage in the art. *See, e.g.*, original specification at page 3, line 32.

Note that at the beginning of a loan “sale” transaction, the seller owns the loan obligation – the original borrower owes the obligation to the party that is now selling the loan. After the loan sale transaction, the seller no longer owns the loan obligation, but now owns whatever the buyer paid for the loan – typically cash. It is impossible to equate any party in Fraser ’947 to the party who does the “selling” of claim 23. Note that in Fraser’s loan origination transaction, no party begins by owning the obligation, because the obligation only comes into existence at the conclusion of the origination transaction.

Because claim 23 recites an “offer to sell at least one loan,” and Fraser ’947 fails to discuss any transaction involving the “sale” or “offer to sell” a loan, claim 23 is patentable over Fraser ’947.

Claims 29, 35 and 37 are patentable for similar reasons.

### **III. Rejection of claim 31 over Fraser ’947**

Paragraph 2 of the Action discusses claim 31 in light of Fraser ’947. Claim 31 recites as follows:

31. A method comprising:  
receiving at a data processing system a lending criteria from each of a plurality of lenders;  
receiving at said data processing system a loan solicitation from an loan seeker;  
comparing in said data processing system said loan solicitation to said lending criteria from each of said plurality of lenders to identify a first lender whose lending criteria are met by said loan solicitation; and  
receiving at said data processing system an indicium that a fee has been incurred with respect to transactions involving said first lender.

In Fraser ’947, the process of determining whether a loan solicitation (or application) meets the lending criteria of a lender is discussed at col. 12, line 66 to col. 13, line 8. It appears that this process is performed by a human being, not “in said data processing system” as recited in claim 37. The searches at col. 11, lines 28-31 are only preliminary matches, for “prospective loans

which might be of interest to the lender” (col. 12, lines 9-10), not for those that meet the lender’s lending criteria.

Because claim 31 recites a limitation that is absent from Fraser ’947, any rejection may be withdrawn.

#### **IV. Newly-added claims**

Claims 39-157 are added to claim additional aspects of the invention not previously claimed. Addition of these claims is not responsive to any statutory ground of rejection.

Support for claims 39, 40 and 66 is found at page 6, line 17 to page 7, line 3 of the original specification.

Support for claims 39, 78 and 94 is found at page 7, lines 4-21 of the original specification.

Support for claims 39 and 105 is found at page 6, line 17 to page 7, line 21 of the original specification.

Support for claims 39, 117 and 135 is found at page 14, line 21 to page 16, line 10 of the original specification.

Support for claims 39, 140 and 148 is found at page 19, lines 6-8 and page 20, lines 2-7 of the original specification.

Support for claims 39 and 153 is found at page 24, lines 18-28 of the original specification.

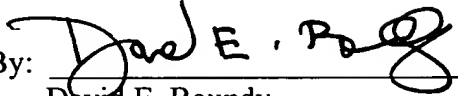
Applicant respectfully submits that the claims are in condition for allowance. Applicant requests that the application be passed to issue in due course. The Examiner is urged to telephone Applicant’s undersigned counsel at the number noted below if it will advance the prosecution of this application, or with any suggestion to resolve any condition that would impede allowance. In the event that any extension of time is required, Applicant petitions for

that extension of time required to make this response timely. Kindly charge any additional fee, or credit any surplus, to Deposit Account 50-0324, Order No. 31091/2c.

Respectfully submitted,

SHEARMAN & STERLING

Dated: October 29, 2001

By:   
David E. Boundy  
Registration No. 36,461

Mailing Address:  
SHEARMAN & STERLING  
599 Lexington Avenue  
New York, NY 10022  
(212) 848-7332  
(212) 848-7179 Telecopier